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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/163,272	09/29/1998	JONATHAN DINSMORE	DNI-041	9801

7590 03/14/2002

AMY E. MANDRAGOURAS
LAHIVE AND COCKFIELD
28 STATE STRTEET
BOSTON, MA 02109

EXAMINER

BAKER, ANNE MARIE

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 03/14/2002

19

Please find below and/or attached an Office communication concerning this application or proceeding.

File

Advisory Action

Application No.
09/163,272

Applicant(s)
Dinsmore, J.

Examiner
Anne-Marie Baker, Ph.D.

Art Unit
1632



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Feb 8, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Feb 8, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: See Part A on attached sheet.

4. ☐ Applicant's reply has overcome the following rejection(s):

5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).

6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
the arguments presented are directed to the claims as amended, but the proposed claim amendments have not been entered.

7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-8, 10-26, and 28-47 remain rejected for reasons of record.

9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

11. ☐ Other: _____

Anne-Marie Baker
ANNE-MARIE BAKER
PATENT EXAMINER

Art Unit: 1632

Advisory Action

Part A.

If entered, the proposed claim amendments would require new grounds of rejection under 35 U.S.C. 112, second paragraph. For example, Claim 36 would require a new grounds of rejection under 35 U.S.C. 112, second paragraph, because it recites "[t]he method of either of claims 1 or 18" which renders the claim indefinite, as Claim 1 is directed to a composition, not a method.